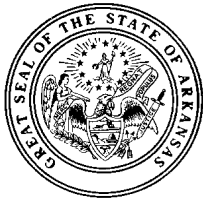

ASBCE NEWSLETTER



AR STATE BOARD OF CHIROPRACTIC EXAMINERS

www.state.ar.us/asbce

Watts 1-866-257-8227

March 2002

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Message From ASBCE

President

Larry L. Grinder, D.C.

The Arkansas State Board of Chiropractic Examiners (ASBCE) has been busy in many areas. Some of the highlights are the testing of new doctors coming into the state and implementing some changes in the x-ray portion of the test. I have been especially impressed with the young group of doctors coming into the state. It makes me believe more strongly than before that there is a very bright future for chiropractic in Arkansas.

Chiropractic is the leading profession in alternative health care, but with leadership comes challenges! Physical Therapists, medical doctors and even veterinarians recognize the effectiveness of spinal manipulation. The recent victory with Medicare that prevents Physical Therapists from treating subluxations was great news. Arkansas law allows ASBCE to deal with individuals practicing chiropractic without a license. We need you to contact the board if you know of any such instances occurring in your communities.

To be sure you are within the limits of the law, please review 'Rule Q' published in this newsletter. If you have questions, please contact the board office and we will be glad to assist you. (Continued on page 2)

INSIDE THIS ISSUE

- 1** President's Letter
- 2** Ethyl Chloride Sprays – Reg. Q – Dept. of Health
- 3** Calendar of Events - New Licensees
- 4** Adjudicatory Hearings - Complaints
- 5** HIPAA

Dr. Larry Grinder, ASBCE President

(Continued from Cover)

It is important to the chiropractic profession that each of us display integrity, professionalism and give the best care possible to the citizens of Arkansas. Our patient base continues to grow every year because chiropractic has so much to offer. We must hold ourselves accountable as we have been entrusted with a great profession. "To whom much is given, much is required."

REGULATION Q

QUESTIONS ARE STILL BEING ASKED.

In our last newsletter, Dr. Michael Courtney clarified Unprofessional Acts (q), but there still seems to be some questions regarding regulation q.

Please note: Direct contact with prospective patients by in-person or live telephone communication (telemarketing) **is prohibited** for 30 days after an accident.

Direct mail is **permitted**. You may not solicit by written or recorded communication or by in-person or telephone contact **if**:

- 1) the prospective patient has made known to the chiropractic physician a desire not be solicited by the licensee
- 2) the solicitation involves coercion, duress or harassment, fraud overreaching, intimidation, or undue influence, or
- 3) the prospective patient is known to the licensee to be treated by another licensee, except where the prospective patient has initiated the contact.

A Great **BIG** Thank You to:

Dr. Michael Courtney and Dr. Mark Bradley who undertook the task of rewriting the X-Ray Interpretation test. We now have X-Ray Illuminators for applicants taking the test to view original x-rays on the illuminators, which has enhanced the testing process tremendously.

Thanks again to Dr. Courtney & Dr. Bradley!

ETHYL CHLORIDE SPRAY & FLUORI-METHANE SPRAYS ARE PART OF CHIROPRACTIC SCOPE OF PRACTICE AND ARE CLASSIFIED AS A DEVICE. THE DEVICE IS TO BE USED ONLY BY THE CHIROPRACTIC PHYSICIAN LICENSED BY STATE LAW.

DEPARTMENT OF HEALTH & HUMAN SERVICES CENTERS FOR MEDICARE & MEDICAID SERVICES – OPERATIONAL POLICY LETTER #23

SUBJECT: Manual Manipulation of the Spine to Correct Subluxation—Medicare Coverage

Effective Date: January 15, 2002

Operational Policy Question:

Which practitioners are authorized by law to perform manual manipulation of the spine to correct a subluxation as a Medicare-covered service?

Answer:

Section 1861(r) of the Social Security Act provides the definition of a physician for Medicare coverage purposes, which includes a chiropractor for treatment of manual manipulation of the spine to correct a subluxation. (As a standard Medicare Part B benefit, manual manipulation of the spine to correct a subluxation must be made available to enrollees in all Medicare + Choice plans.) The statute specifically references manual manipulation of the spine to correct a subluxation as a physician service. Thus, Medicare+Choice organizations must use physicians, which include chiropractors, to perform this service. They may not use non-physician physical therapists for manual manipulation of the spine to correct a subluxation. Medicare+Choice organizations may continue to use physical therapists to treat enrollees for conditions not requiring physician services as defined in section 1861 (r) of the Social Security Act.

EVENTS

CALENDAR OF EVENTS

SPECIAL EVENT

FEDERATION OF CHIROPRACTIC LICENSING
BOARDS

76TH ANNUAL CONGRESS

PLACE: CHICAGO, ILLINOIS

DATE: MAY 1-5, 2002

INVESTIGATION MEETING

PLACE: MAIN STREET MALL - CONFERENCE
ROOM B

DATE: MARCH 21, 2002

TIME: 1:00 P.M.

LICENSURE EXAMINATION, BUSINESS
MEETING & ORIENTATION WAS HELD:

PLACE: MAIN STREET MALL
CONFERENCE ROOM C

DATE: JANUARY 24, 2002

EVENT

BUSINESS MEETING

DATE: APRIL 23, 2002

PLACE: MAIN STREET MALL

TIME: 10:00 A.M.

EVENT

CREDENTIALS MEETING

DATE: JUNE 18, 2002

PLACE: MAIN STREET MALL

TIME: 10:00 A.M.

SPECIAL EVENT

LICENSURE EXAMINATION, BUSINESS MEETING,
ORIENTATION

PLACE: MAIN STREET MALL-
CONFERENCE ROOM C

DATE: JULY 25, 2002

**THE FOLLOWING CANDIDATES PASSED THE JANUARY 24,
2002 EXAMINATION.**

DR. STEPHEN DABBS

DR. LORI DABBS

**IN LIEU OF THE PRACTICAL EXAMINATION THE
FOLLOWING PRESENTED A NATIONAL BOARD TRANSCRIPT
PART IV.**

DEANNA BACHERT, DC

TRAVIS BACHERT, DC

TODD ELSNER, DC

DANNY KILLOUGHY, DC

KELI HARRIS, DC

PETER HARRIS, DC

ERIC WALKER, DC

DAVID WARREN, DC

CONGRATULATIONS TO ALL THE NEW LICENSEES & WELCOME
TO ARKANSAS.

STATISTICS OF AR LICENSEES

LICENSEES: 520 *Active*

38 *Inactive*

ACUPUNCTURE: 111 *In-State*

9 *Out-State*

WE DID IT AGAIN, ANOTHER RENEWAL PROCESS COMPLETED:

Thank all of you again for renewing your license
in a timely manner by submitting your renewal application
and continuing education hours by December 31.

This year we had fewer doctors renewing late.
We're hoping that's a trend that will continue. As always
there were several out-of-state doctors who elected not to
renew their Arkansas license. We had one doctor in-state
who failed to renew. The Board's attorney notified the
doctor by mail to cease and desist from practicing due to
noncompliance with the Arkansas Code.

The Board cannot renew the license of any
person unless he/she presents to the Board evidence of
attending the required continuing education credit hours.

DOCTORS PLEASE MAKE SURE ANY
SEMINAR YOU ATTEND HAS **AN ARKANSAS
APPROVAL NUMBER.** DO NOT ATTEND A
SEMINAR BECAUSE IT WAS APPROVED LAST
YEAR THINKING IT IS AUTOMATACALLY
APPROVED THE NEXT YEAR. COLLEGES HAVE
TO RESUBMIT EACH YEAR!

DISCIPLINARY UPDATES

ADJUDICATORY HEARING

Case 170-07-16-00 – 176-09-20-01 177-09-20-01

Dr. Lynn Buhr

The Board held an adjudicatory hearing on November 8, 2001. In the matter of, Dr. Lynn Buhr. The Board voted that the allegations against Dr. Buhr were proven. Based on the Findings of Fact and Conclusions of Law the Board ordered that the chiropractic license of Dr. Lynn Buhr be revoked in compliance with the Board's July 12, 1999 Order. Dr. Buhr is appealing the Boards ruling.

ADJUDICATORY HEARING

Case 154-07-14-00

Dr. Carolyn Taylor

On November 8, 2001 the Board of Examiners held an adjudicatory hearing in the matter of, Dr. Carolyn Taylor. Upon hearing the testimony and comments the Board made the following conclusion and order.

1. Payment of the \$36,000 fine previously assessed be deferred until resolution of her pending appeal.
2. Dr. Taylor remain on probation for the balance of the previously assessed 25-month period.
3. Dr. Taylor is to take 12 hrs. of continuing education in the subject areas of risk management, office procedures, and/or standard of care and provide the Board with proof of certification thereof no later than 1/30/02. Submit to the Board a letter expressing her willingness to comply with the penalties levied in the event her appeal is unsuccessful, as well as her acknowledgement that failure to comply would lead to further charges. The letter is to be submitted to the Board by 1/30/02.

BREAKDOWN OF COMPLAINTS/INVESTIGATIONS

Case #166-06-29-01: Pending
Case #167-07-02-01: Resolved
Case #168-07-16-01: No violation
Case #169-07-16-01: No rule applied
Case #171-07-23-01: No violation
Case #172-07-24-01: Pending
Case #173-08-17-01: No violation
Case #174-09-12-01: Under investigation
Case #175-09-12-01: Under investigation
Case #178-09-24-01: No violation
Case #178-11-06-01: Pending
Case #179-11-06-01: Pending
Case #180-11-06-01: Pending
Case #181-12-04-01: Pending
Case #182-12-11-01: Pending
Case #183-12-13-01: Under investigation
Case #184-01-07-02: Pending
Case #185-01-28-02: Under investigation
Case #186-01-31-02: Under investigation
Case #187-02-04-02: Under investigation

THE DISCIPLINARY PROCESS

The Board has the right and responsibility, to investigate complaints, allegations or suspicions of violations of the Arkansas Chiropractic Practice Act or the Regulations.

When the Board contemplates taking disciplinary action, a written notice is served upon the licensee thirty (30) days before the hearing.

The notice includes a statement of the facts or conduct upon which disciplinary action is contemplated. The notice is served by registered or certified mail. The Board may conduct the proceedings without the doctor being present.

To ensure a fair and efficient hearing, the Hearing Officer enforces proper conduct on all persons present. A formal record is made of the hearing. If the case is appealed a transcript of the proceedings is required.

The Board must determine the facts in issue solely on the basis of the evidence submitted. And whether the charges are in violation of the law or rule then decide on an appropriate sanction.

A final decision shall be in writing and recorded. It includes findings of fact and conclusion of law and order.

HIPAA

HIPAA, which is an acronym for “Health Insurance Portability and Accountability Act of 1996” was enacted as part of a broad Congressional attempt at incremental healthcare reform. The “Administrative Simplification” aspect of that law requires the United States Department of Health and Human Services to develop standards and requirements for maintenance and transmission of health information that identifies individual patients.

As Congress required in HIPAA, most covered entities have two full years from the date the regulation took effect – or, until April 14, 2003 – to come into compliance with these standards. Under the law, small health plans will have three full years – or, until April 14, 2004 – unless HHS make changes prior to that deadline.

These standards were designed to:

- Improve the efficiency and effectiveness of the healthcare system by standardizing the interchange of electronic data for specified administrative and financial transactions; and
- Protect the security and confidentiality of electronic health information.



Do small health care providers have to comply with the transaction standards adopted under HIPAA?



All covered entities (health plans, health care clearinghouses, and certain health care providers), regardless of their size, must comply with the standards adopted under HIPAA.

A covered health care provider is one who transmits any health information in electronic form in connection with a transaction covered in 45 CFR Subtitle A, Subchapter C. Some small health care providers do not conduct any business transactions electronically and do not use a service to do so on their behalf. Such health care providers are not subject to the requirements of the transaction standards. HIPAA distinguishes only health plans on the basis of size, giving small health plans an extra year to comply.

PRIVACY

DHHS on December 28, 2000 published the final regulations to protect patient privacy. These standards outline specific rights for individuals regarding protected health information and obligations of healthcare providers, health plans, and health care clearinghouses. The privacy regulations grant healthcare consumers a greater level of control over the use and disclosure of personally identifiable health information. Healthcare providers are prohibited from using or disclosing health information except as authorized by the patient or specifically permitted by the regulation. The final rule's applicability is expanded to include all personally identifiable health information, irrespective of form. There is no longer an exclusion for written medical records never transferred to electronic form or oral communications.

Health plans and healthcare providers must inform their patients/beneficiaries of their business practices concerning the use and disclosure of health information. Direct healthcare providers must obtain written consent from a patient for use and disclosure of health information, even if the use or disclosure is related such routine purposes as treatment or payment. A separate, specific authorization is required for non-routine disclosures. Finally, as a component of the consent process, patients are granted the opportunity to request restrictions on the use and disclosure of their health information. Within 60 days of a request, patients are entitled to a disclosure history identifying all entities that received health information unrelated to treatment or payment. Patients also have a right to review and copy their own medical records and have the corresponding right to request amendments or corrections to potentially harmful errors within the record.

PLEASE SEE THE ENCLOSED ATTACHMENT:

HHS FACT SHEET

Protecting the Privacy of Patient's Health Information

✓ CHECK OUT OUR WEB SITE AT
WWW.STATE.AR.US/ASBCE.

✓ PLEASE FEEL FREE TO USE OUR
NEW WATT'S LINE AT 866-257-8227.

PLEASE NOTE

ADDRESS CORRECTION REQUESTED!

You know where you are. You know where we are. We know where we are. But-----We don't always know where you are....Please keep us posted!

❖ *The Arkansas State Board of Chiropractic Examiners does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.*



ARKANSAS STATE BOARD OF
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ADDRESS CORRECTION REQUESTED